

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

MAURA HOGAN LARKINS,

Charging Party,

v.

CHULA VISTA ELEMENTARY SCHOOL
DISTRICT,

Respondent.

Case No. LA-CE-4382-E

Request for Reconsideration
PERB Decision No. 1557

PERB Decision No. 1557a

April 29, 2004

Appearances: Maura Hogan Larkins, on her own behalf; Parham & Rajcic by Mark R. Bresee, Attorney, for Chula Vista Elementary School District.

Before Duncan, Chairman; Whitehead and Neima, Members.

DECISION

NEIMA, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Maura Hogan Larkins (Larkins) of the Board's decision in Chula Vista Elementary School District (2003) PERB Decision No. 1557. That decision involved an unfair practice charge filed by Larkins alleging that the Chula Vista Elementary School District (District) violated the Educational Employment Relations Act (EERA)¹ by retaliating against her for engaging in protected activities. The Board ultimately dismissed Larkin's charge for failure to state a prima facie case. Larkins now urges the Board to reconsider its decision.

¹EERA is codified at Government Code section 3540, et seq.

After reviewing the entire record in this case, including Larkin's request for reconsideration and the District's response, the Board hereby denies the request for reconsideration.

DISCUSSION

PERB Regulation 32410² states, in pertinent part:

The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case.

Thus, a request for reconsideration is not simply an opportunity to ask the Board to "try again." To the contrary, reconsideration may only be granted on limited grounds. (PERB Reg. 32410.) Unless a proper ground for reconsideration is demonstrated, the Board will not entertain requests to review its decision.

Here, Larkins argues in her request for reconsideration that there is ample evidence in the record establishing a prima facie case of retaliation by the District. Larkins then proceeds to highlight events and facts to support her contentions. In essence, Larkins' request for reconsideration simply re-argues her case. As Larkins has not met any of the grounds set forth in PERB Regulation 32410, her request for reconsideration is denied.

²PERB regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

ORDER

The request for reconsideration of the Board's decision in Chula Vista Elementary School District (2003) PERB Decision No. 1557 is hereby DENIED.

Chairman Duncan and Member Whitehead joined in this Decision.